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SENATE BILL 620

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO TAXATION; IMPOSING A LIQUOR EXCISE TAX SURCHARGE ON  
WHOLESALEERS WHO SELL ALCOHOLIC BEVERAGES; PROVIDING FOR A  
DISTRIBUTION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-2 NMSA 1978 (being Laws 1965,  
Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY. -- The Tax Administration Act  
applies to and governs:

A. the administration and enforcement of the  
following taxes or tax acts as they now exist or may hereafter  
be amended:

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Venture Capital Investment Act;

- 1                   (4) **Gross Receipts and Compensating Tax Act**  
2 **and any state gross receipts tax;**
- 3                   (5) **Liquor Excise Tax Act;**  
4                   (6) **Local Liquor Excise Tax Act;**  
5                   (7) **any municipal local option gross receipts**  
6 **tax;**
- 7                   (8) **any county local option gross receipts**  
8 **tax;**
- 9                   (9) **Special Fuels Supplier Tax Act;**  
10                  (10) **Gasoline Tax Act;**  
11                  (11) **petroleum products loading fee, which fee**  
12 **shall be considered a tax for the purpose of the Tax**  
13 **Administration Act;**
- 14                  (12) **Alternative Fuel Tax Act;**  
15                  (13) **Cigarette Tax Act;**  
16                  (14) **Estate Tax Act;**  
17                  (15) **Railroad Car Company Tax Act;**  
18                  (16) **Investment Credit Act, Capital Equipment**  
19 **Tax Credit Act, rural job tax credit, Laboratory Partnership**  
20 **with Small Business Tax Credit Act and Technology Jobs Tax**  
21 **Credit Act;**
- 22                  (17) **Corporate Income and Franchise Tax Act;**  
23                  (18) **Uniform Division of Income for Tax**  
24 **Purposes Act;**
- 25                  (19) **Multistate Tax Compact;**

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1 (20) Tobacco Products Tax Act;

2 (21) the telecommunications relay service  
3 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
4 surcharge shall be considered a tax for the purposes of the Tax  
5 Administration Act; ~~and~~

6 (22) the daily bed surcharge imposed on  
7 licensed nursing homes, intermediate care facilities for the  
8 mentally retarded and residential treatment centers, which  
9 surcharge shall be considered a tax for purposes of the Tax  
10 Administration Act until June 30, 2007; and

11 (23) the liquor excise tax surcharge imposed  
12 pursuant to the Liquor Excise Tax Act, which surcharge shall be  
13 considered a tax for purposes of the Tax Administration Act;

14 B. the administration and enforcement of the  
15 following taxes, surtaxes, advanced payments or tax acts as  
16 they now exist or may hereafter be amended:

- 17 (1) Resources Excise Tax Act;
- 18 (2) Severance Tax Act;
- 19 (3) any severance surtax;
- 20 (4) Oil and Gas Severance Tax Act;
- 21 (5) Oil and Gas Conservation Tax Act;
- 22 (6) Oil and Gas Emergency School Tax Act;
- 23 (7) Oil and Gas Ad Valorem Production Tax Act;
- 24 (8) Natural Gas Processors Tax Act;
- 25 (9) Oil and Gas Production Equipment Ad

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1 Valorem Tax Act;

2 (10) Copper Production Ad Valorem Tax Act;

3 (11) any advance payment required to be made  
4 by any act specified in this subsection, which advance payment  
5 shall be considered a tax for the purposes of the Tax

6 Administration Act;

7 (12) Enhanced Oil Recovery Act;

8 (13) Natural Gas and Crude Oil Production  
9 Incentive Act; and

10 (14) intergovernmental production tax credit  
11 and intergovernmental production equipment tax credit;

12 C. the administration and enforcement of the  
13 following taxes, surcharges, fees or acts as they now exist or  
14 may hereafter be amended:

15 (1) Weight Distance Tax Act;

16 (2) the workers' compensation fee authorized  
17 by Section 52-5-19 NMSA 1978, which fee shall be considered a  
18 tax for purposes of the Tax Administration Act;

19 (3) Uniform Unclaimed Property Act;

20 (4) 911 emergency surcharge and the network  
21 and database surcharge, which surcharges shall be considered  
22 taxes for purposes of the Tax Administration Act;

23 (5) the solid waste assessment fee authorized  
24 by the Solid Waste Act, which fee shall be considered a tax for  
25 purposes of the Tax Administration Act;

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1 (6) the water conservation fee imposed by  
2 Section 74-1-13 NMSA 1978, which fee shall be considered a tax  
3 for the purposes of the Tax Administration Act; and

4 (7) the gaming tax imposed pursuant to the  
5 Gaming Control Act; and

6 D. the administration and enforcement of all other  
7 laws, with respect to which the department is charged with  
8 responsibilities pursuant to the Tax Administration Act, but  
9 only to the extent that the other laws do not conflict with the  
10 Tax Administration Act. "

11 Section 2. A new section of the Tax Administration Act is  
12 enacted to read:

13 "[NEW MATERIAL] DISTRIBUTION--HEALTH INSURANCE PROGRAMS. --  
14 A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
15 made to the human services department in an amount equal to the  
16 net receipts attributable to the liquor excise tax surcharge to  
17 be used for a program pursuant to the federal waiver obtained  
18 by the human services department to provide health care  
19 coverage to persons under two hundred percent of the federal  
20 poverty level. "

21 Section 3. A new section of the Liquor Excise Tax Act is  
22 enacted to read:

23 "[NEW MATERIAL] IMPOSITION AND RATE--LIQUOR EXCISE TAX  
24 SURCHARGE. --There is imposed on a wholesaler who sells  
25 alcoholic beverages on which the liquor excise tax is imposed a  
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1 surcharge, to be referred to as the "liquor excise tax  
2 surcharge", of the following rates on alcoholic beverages sold:

3 A. on spirituous liquors, one dollar twelve cents  
4 (\$1.12) per liter;

5 B. on beer, including beer manufactured or produced  
6 by a microbrewer, fifty-three cents (\$.53) per gallon;

7 C. on wine, including fortified wine and wine  
8 manufactured and produced by a small winer or winegrower,  
9 thirty-four cents (\$.34) per gallon; and

10 D. on cider, fifty-three cents (\$.53) per gallon. "

11 Section 4. Section 7-17-6 NMSA 1978 (being Laws 1984,  
12 Chapter 85, Section 4, as amended) is amended to read:

13 "7-17-6. DEDUCTION--INTERSTATE SALES.--A wholesaler may  
14 deduct the liters of spirituous liquors, gallons of beer and  
15 liters of wine sold and shipped to a person in another state  
16 from the units of alcoholic beverages subject to the liquor  
17 excise tax [~~imposed by the Liquor Excise Tax Act~~] or the liquor  
18 excise tax surcharge; provided that the department may require  
19 the wholesaler to submit evidence satisfactory to the  
20 department that the units have been sold and shipped to a  
21 person in another state. "

22 Section 5. Section 7-17-9 NMSA 1978 (being Laws 1966,  
23 Chapter 49, Section 7, as amended) is amended to read:

24 "7-17-9. EXEMPTION--CERTAIN SALES TO OR BY  
25 INSTRUMENTALITIES OF ARMED FORCES.--Exempted from the [~~tax~~

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1 ~~imposed by Section 7-17-5 NMSA 1978]~~ liquor excise tax and the  
2 liquor excise tax surcharge are alcoholic beverages sold to or  
3 by any instrumentality of the armed forces of the United States  
4 engaged in resale activities. "

5 Section 6. Section 7-17-10 NMSA 1978 (being Laws 1966,  
6 Chapter 49, Section 8, as amended) is amended to read:

7 "7-17-10. DATE PAYMENT DUE. --The [~~tax imposed by the~~  
8 ~~Liquor Excise Tax Act is]~~ liquor excise tax and the liquor  
9 excise tax surcharge are to be paid on or before the twenty-  
10 fifth day of the month following the month in which the taxable  
11 event occurs. "

12 Section 7. Section 7-17-11 NMSA 1978 (being Laws 1969,  
13 Chapter 80, Section 1, as amended) is amended to read:

14 "7-17-11. REFUND OR CREDIT OF TAX. --The department shall  
15 allow a claim for refund or credit as provided in Sections  
16 7-1-26 and 7-1-29 NMSA 1978 for the [~~tax~~] liquor excise tax and  
17 the liquor excise tax surcharge imposed [~~by Section~~  
18 ~~7-17-5 NMSA 1978]~~ and paid on alcoholic beverages destroyed in  
19 shipment, spoiled or otherwise damaged as to be unfit for sale  
20 or consumption upon submission of proof satisfactory to the  
21 department of such destruction, spoilage or damage. "

22 Section 8. Section 7-17-12 NMSA 1978 (being Laws 1984,  
23 Chapter 85, Section 8, as amended) is amended to read:

24 "7-17-12. INTERPRETATION OF ACT--ADMINISTRATION AND  
25 ENFORCEMENT OF TAX. --

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A. The department shall interpret the provisions of the Liquor Excise Tax Act.

B. The department shall administer and enforce the collection of the liquor excise tax and the liquor excise tax surcharge, and the Tax Administration Act applies to the administration and enforcement of the tax. "